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Viresh Ratnakar

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EXAMINER

RAO, ANAND SHASHIKANT

ART UNIT

PAPER NUMBER

2621

MAIL DATE

DELIVERY MODE

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PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Response to Request For Reconsideration Submitted After Final

1. Applicant's arguments filed on 3/18/09 with respect to claims 1-3, and 5-15 have been fully considered but they are not persuasive.
2. Claims 1-3, 5-17 remain rejected under 35 U.S.C. 102(e) as being anticipated by Pejhan et al., (hereinafter referred to as "Pejhan"), as was maintained in the Final Office Action of 12/19/08 and discussed in depth in the Interview of 3/12/09.
3. The Applicant presents two substantive arguments contending the Examiner's pending as listed above. However, after careful consideration of the arguments and further scrutiny of the applied Pejhan reference, the Examiner must respectfully disagree for the reasons that follow, and maintain the grounds of rejection.
4. After summarizing the nature of the discussion of the "real-time" measures as covered in the Interview of 3/16/09 (Request for Reconsideration as Submitted After Final on 3/18/09: page 6, lines 7-16), the Applicant's contention that Examiner's admission that the "weighted (real) time value..." being overlooked, establishes that the claims of the instant invention distinguish over the art of record. In particular, as stipulated in the Interview, the "real-time" nature of the all calculations need to be explicitly recited for this argument to carry any weight. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., "weighted real time value") are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993). In particular, the Examiner notes that in exemplary claim 10, while the averaging operation is initiated using respective measured real

Art Unit: 2621

times of a previous frame and a previously used algorithm, thus constraining that intermediate result to a *real-time only* interpretation, the assignment of a *weighting* average time value is not sufficiently established to be constricted to a real-time application. Once the non-real time nature of the applied weighting is introduced in the calculations, all subsequent mathematical functions (i.e. the comparing, controlling, and upgrading steps) are pulled down to a non-real time computational interpretation. This allows for the Examiner's interpretation that while the claims start out with the manipulation of real-time measureables, the lack of specificity as to the nature of the applied weights (i.e. a non-real time factor) changes the nature of the subsequent calculations involved the comparing, controlling, downgrading, and upgrading steps. The scope of the claims allows for the "...overlooking..." of the feature, as discussed. The claims need to be sufficiently amended to rigidly associate the "real-time" nature of the method with all of the calculation steps.

Lastly, the Applicants argue while transmission rates and algorithm rates are not synonymous and that this is an appreciable difference (Request for Reconsideration as Submitted After Final on 3/18/09: page 6, lines 17-29; page 7, lines 1-2). The Examiner doesn't necessarily agree. In particular, the desired transmission rate is going to be the overriding and driving timing feature of a coding process, and particularly as discussed in the reference. If an algorithm cannot provide coded imagery at a desired or target transmission rate, than one is going to get another algorithm or change the parameters of the current algorithm to do so. While one may have overflows and underflows as discussed by the Applicant, such discrepancies are designed to dealt with over a few frames such that the desired target transmission rate is striven for, and that a runaway situation is avoided It is noted that for instance, since Pejhan discloses the desirability

Art Unit: 2621

of generating real-time transmission through re-encoding (Pejhan: column 2, lines 25-32) any algorithms would necessarily have to also be implemented in real-time. It would not be logical to assume that a non-real time implementation of a coding algorithm could be executed to produce the transmission of coded video at a real-time transmission rate

Accordingly, the Examiner maintains the rejection.

Conclusion

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andy S. Rao whose telephone number is (571)-272-7337. The examiner can normally be reached on Monday-Friday 8 hours.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mehrdad Dastouri can be reached on (571)-272-7418. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

Andy S. Rao

Application/Control Number: 10/631,155

Page 5

Art Unit: 2621

Primary Examiner
Art Unit 2621

asr

/Andy S. Rao/

Primary Examiner, Art Unit 2621

June 3, 2009